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May 27, 1999

**FOR SETTLEMENT PURPOSES ONLY**  
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Sherry Estes, Esq.  
 Office of Regional Counsel  
 U.S. Environmental Protection Agency  
 Region V  
 77 West Jackson Boulevard (C-29A)  
 Chicago, IL 60604

**Re: Skinner Landfill**

Dear Ms. Estes:

Our office represents the C. M. Paula Company in this matter. As you may be aware, C.M. Paula entered into a de minimis settlement agreement earlier this year with the Plaintiffs in the Skinner Landfill private cost recovery action in the United States District Court for the Southern District of Ohio. In addition to providing for settlement of Plaintiffs' claims regarding their past costs at the Skinner Site, that agreement requires certain of the Plaintiffs to seek to negotiate a de minimis settlement between C.M. Paula and the United States (on behalf of the U.S. Environmental Protection Agency ("EPA")) that is at least as protective of the company's interests as are the terms of EPA's Model De Minimis Consent Decree set forth in the December 7, 1995 Federal Register.

It is C.M. Paula's understanding that EPA, Region V has now determined what information it will require in order to determine that C.M. Paula qualifies for a de minimis settlement at this Site. That information consists of: (i) the summary of each de minimis settlor's waste-in volume and percentage share of Site costs, as determined by the Allocator in the Final Allocation Report from the Skinner Alternative Dispute Resolution process, and (ii) the narrative description of the Allocator's findings for each de minimis settlor, as set forth in the Preliminary Allocation Report and, where the Allocator supplemented or altered those findings in the Final Allocation Report, the Final Allocation Report.

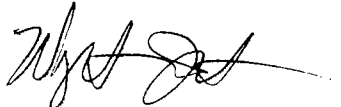
Accordingly, I am enclosing the information requested by EPA for C.M. Paula. I believe that this information amply demonstrates that C.M. Paula is entitled to a de minimis

Sherry Estes, Esq.  
May 27, 1999  
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settlement consistent with EPA's model de minimis settlement decree. By making this settlement offer, C.M. Paula does not acknowledge any liability for response costs at the Skinner Site.

In order to ensure that C.M. Paula is able to avoid incurring additional transaction costs in connection with the ongoing Skinner Landfill cost recovery litigation, C.M. Paula strongly urges EPA to finalize an appropriate de minimis settlement as expeditiously as possible. Such timely action would fulfill the statutory objectives of Section 122(g) of CERCLA and EPA's de minimis settlement policies, as well as provide needed funds for response actions at the Site.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wijdan Jreisat', with a long horizontal flourish extending to the right.

Wijdan Jreisat

WJ/KTBH:407051.1

Enclosures

cc: C.M. Paula Company

## **C.M. Paula Company**

Settlement Amount:                \$22,959.19

### **Excerpt from Allocator's Preliminary Report :**

Paula owned and/or operated a facility at 7773 School Road, Cincinnati from 1964 - 1996. It was used for the assembly of gift products manufactured by others.

The company also had a facility on Blue Ash Road from 1961 - 1965 and another on Crescentville Road from 1980 - 1992. The latter was one of several warehouse/storage facilities. The only wastes that were generated at the distribution centers were corrugated cardboard and general waste from employees, Paula said.

Nexus package documents suggested that Paula was the source of oil and/or plastic that reached the Site. Paula advised me that it did not send liquid waste to the Site but that it was the source of solid waste. The solid waste consisted of "reject figurines" and waste paper from stationery pads and other waste paper. The figurines were molded from a polyester resin material called Water Extendible Polyester ["WEP"] which contained among other things, styrene. The WEP was mixed with water to form a liquid which was poured into rubber molds. The substance hardened in 3 - 4 minutes and contained about 40% WEP and 60% water. The water evaporated in a couple of days.

Paula made some estimates of waste figurine volume based on production and rejection rates. About 2 - 4% of the molded figurines were defective. The process of using WEP began in 1970 or 1971 and was discontinued in late 1988 or early 1989. The only available sales records are for the period 1975 - 1989. Paula originally estimated that it sold 2.5 million figurines in 1975 but later explained that this figure was a mistake and the correct number was approximately 1.65 million. Beginning in 1975, sales began to decline sharply, I was told. If I understand Paula's figures correctly, figurine sales dropped to 1.47 million in 1976, 1.34 million units in 1977, .95 million in 1978 - 1981, .57 million in 1982, down to .1 million in 1989. The figurines weighed approximately 7 ounces each. At the peak of production, molding operations took place 4 days a week. In the later years, molding was done approximately once a month. Also, in the later years the company states that it adopted an aggressive waste abatement program.

Rejects were discarded prior to being painted, I was advised. Ashland Chemical was the supplier of the WEP and assured Paula that the material was non-toxic and non-hazardous. While that may be its view, the MSDS on WEP contains a section called "Hazardous Decomposition Products" which states: "May form toxic materials: carbon dioxide and carbon monoxide, various hydrocarbons, etc." Vapors from the material "may be ignited" by a spark. Later the MSDS said that hazardous polymerization could occur from exposure to excessive heat. There were reported fires at the Landfill.

In approximately 1971, the company purchased a small red dump truck, which it believes may have had a capacity of 1 ½ tons, for use by the School Road facility to haul its waste. The truck may have been sold in 1975. Beginning in approximately 1972, the company contracted with Clarke Trash Removal. Thereafter, it used BFI until September 1990, at which time it contracted with Rumpke. Paula said that it found no evidence that these haulers disposed of figurines. Paula also stated that prior to the use of the company-owned dump truck, one witness recalled that waste was hauled by two companies identified as "Drook" and "Richmond Waste."

The Crescentville facility may have used BFI from 1980 - 1990. It also used Rumpke.

Paula told me that the only hazardous waste produced from its manufacturing process was methylene chloride which was used until 1987 for cleaning molding and painting equipment. The solvent was wiped on with a rag and used rags were placed in drums and stored at the plant. Methylene chloride was also used to flush out the WEP molding machine twice a day whenever it was used, yielding about three to five gallons of waste material, including WEP and water. The use of this solvent declined as production of the figurines decreased. Most of the methylene chloride would quickly evaporate. Paula stated that there are no records of any such waste going to Skinner, although it is my understanding that Paula had no records relating to Skinner at all.

Paula states that Ashland Chemical worked with it to attempt to recycle the rejected figurines at the beginning of the use of WEP. For that reason, it estimates that actual disposal of the figurines did not begin until some time after 1971, perhaps as late as 1972 or 1973. One former employee, who is now deceased, stated that Paula took waste to the Skinner Site for "a couple of years." Another interviewee who started with the company in 1974, recalled the "red dump truck" being used for a year or two after he joined the company. Paula said that the range two to five years in the early to mid-1970s represented the time period it used the Site. Prior to this time, Paula said that it disposed of its waste via on-site incineration. Paula does not know how the figurines were disposed of after it got rid of the dump truck.

Ray Skinner testified that Paula disposed of "little statues" in drums which he then characterized as a "real rubbery liquid" and "hard plastic." The drums had some residue in them, he said. They would clean the drums out as best they could and sell the drums. He estimated that Paula hauled in 2-3 loads per week and that there were hundreds of loads. He said that shop "cleanup waste" was included in the barrels as well. He estimated that Paula brought this waste to the Site for a 8-10 year time period.

Maria Roy recalled the figurine waste also. She placed the waste at the Site for the first time in the late 1960s and estimated disposal at a pace of once a month and, for a time at once a week, for a ten year period. She described the use of a smaller dump truck for disposal of the waste. She also said that some of the figurines were removed from the landfill by a person in the auction business. She thought this event occurred in 1969. Paula found out about it and was not pleased, she said.

Lloyd Gregory recalled the disposal of the figurines one time while he was working there (saying they were disposed of before that). Mr. Gregory's testimony is significant primarily because he worked at the Landfill beginning in the mid 1980s. He also said that the figurines were disposed of in dumpster boxes, while Maria Roy and Ray Skinner recalled disposal in barrels.

**Waste-in Amount.** Paula estimates that it sent 60,000 to 120,000 pounds of the figurine waste to the Skinner Landfill in 1971 - 1975. Plaintiffs estimate that the figure is closer to 104,768 to 209,536 pounds. Neither Paula nor the plaintiffs suggest a density in pounds per cy to convert their estimates to cys.

If one assumes a 5 cy capacity dump truck, and in the case of Maria Roy's testimony, disposal of 22 times per year (weekly during the summer would be 13 disposal events plus once a month for 9 months or 22 times), her ten-year estimate of disposal represents 1,100 cys of waste. Ray Skinner's testimony would represent 5,850 cys (5 cys x 2.5 loads per week x 52 weeks times 9 years). Neither estimate takes into account figurines that were salvaged.

Taking the midpoint of Paula's estimate, 90,000 pounds, and assuming a density of 100 pounds per cy (using a loose trash density figure), Paula would have disposed of 900 cys. At 120,000 pounds, the figure would be 1,200 cys. Plaintiffs' figures would result in 1,047 to 2,095 cys. Neither figure takes into account figurines that were salvaged.

The evidence favors a determination that this waste reached the Site for a period longer than the four years suggested by Paula. With respect to the frequency of disposal, Ray Skinner's estimate is high, in my judgment, given Paula's description of its waste generation practices and Maria's recollections. In light of all of these figures, I have decided to use Maria Roy's recollections as my waste-in amount guide here discounted by 100 cys to account for salvaged figurines and am assigning Paula a waste-in amount of 1,000 cys of these figurines with some small amount of shop waste and paper.

Final Allocation Recommendations in Alphabetical Order, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid Waste In Cys	Liquid Waste In Gallons	Solid Waste In Total Cys 372906	Percentage	Liquid Waste In Total Gallons 262252	Percentage	Solid Waste	Liquid Waste	Owner/ Operator & Part of Chem-Dyne	Rest of Chem- Dyne	Total
CM PAULA	1000	0	372906	0.2682%	262252	0.0000%	0.03%	0.00%			0.02682%